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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: LIN 03 268 50183 Office: NEBRASKA SERVICE CENTER Date: JAN 03 2005

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, issued a decision that denied the petition on substantive grounds, but also declared the petition subject to rejection for the petitioner's failure to pay the required filing fee. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as precluded by the director's determination that the petitioner had not paid the fee required to file the petition.

The regulation at 8 C.F.R. § 103.2(a)(7) mandates the rejection of any petition not filed with the required fee. Accordingly, the following statement in the director's decision effected a rejection of the petition:

In addition, [CIS] requested evidence establishing that the petitioner is exempt [from paying] the additional \$1000 filing fee as provided by AC21. The petitioner has asserted that it is a nonprofit research organization or a governmental research organization as defined in 8 CFR [§] 214.2(h)(19)(iii)(C). It is noted that the petitioner has provided evidence that it is exempt from federal income tax. However, there is no indication that that the petitioner's business can be considered a research organization. Since the petitioner failed to establish that it is exempt from the \$1000 filing fee and did not remit the fee, [CIS] is unable to continue processing the instant petition.

The denial of a petition for nonpayment of filing fees is not a matter within the jurisdiction of the AAO. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction only over the matters described at 8 C.F.R. § 103.1(f)(3)(E)(iii) (as in effect on February 28, 2003).

As the petition was rejected for nonpayment of a required filing fee, the appeal must be rejected.

ORDER: The appeal is rejected.